



\$3738

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANT(s): Todd M. Boyce et al. EXAMINER: B. Pellegrino  
SERIAL NO: 09/745,643 GROUP: 3738  
FILED: December 22, 2000 DATE: May 28, 2003  
FOR: KEYED DOCKET: 285-113 CON  
INTERVERTEBRAL DOWEL

Mail Stop Non-fee Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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**AMENDMENT TRANSMITTAL FORM**

Sir:

Transmitted herewith is an amendment in the above-identified application.

- ☒ Small entity status of this application under 37 C.F.R. §§1.9 and 1.27 has been established by a verified statement previously submitted.
- ☐ A verified statement to establish small entity under 37 C.F.R. §§1.9 and 1.27 is enclosed.
- ☒ No additional fee is required.

For	Claims Remaining After Amendment	Highest No. Previously Paid For	Present Extra	Rate (Small Entity)	Addit. Fee	Rate	Addit. Fee
TOTAL CLAIMS*	24	27	20	x 9 =	\$0	x 18 =	\$360
INDEPENDENT CLAIMS	3	3	7	x 42 =	\$0	x 84 =	\$588
<input type="checkbox"/> First Presentation of Multiple Dep. Claim				140		280	\$0

\* If the entry in Col. 1 is less than entry in Col. 2, write "0" in Col. 3.

\*\* If the "Highest No. Previously Paid for" IN THIS SPACE is less than 20, enter "20".

\*\*\* If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The Highest No. Previously Paid For" (Total or indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postpaid in an envelope, addressed to the: Mail Stop Non-fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 28, 2003.

Dated: May 28, 2003

*Maria Goldman*  
Maria Goldman

06/04/2003 ZHUHREI 00000004 09245643  
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- ☐ Please charge Deposit Account No. 04-1121 in the amount of \$\_\_\_\_. Two (2) copies of this sheet are enclosed.
- ☐ A check in the amount of \$\_\_\_\_\_ is enclosed.
- ☒ Please charge any deficiency as well as any other fee(s) which may become due under 37 C.F.R. §§1.16 and/or 1.17 at any time during the pendency of this application, or credit any overpayment of such fee(s) to Deposit Account No. 04-1121. Also, in the event any extensions of time for responding are required for the pending application(s), please treat this paper as a petition to extend the time as required and charge Deposit Account No. 04-1121 therefor. TWO (2) COPIES OF THIS SHEET ARE ENCLOSED.

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Respectfully submitted,



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Attorney for Applicant(s)

PGD:mg



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**RESPONSE TO OFFICE ACTION**

In response to the Office Action of February 28, 2003, reconsideration and allowance by the Examiner of pending Claims 1, 2, 4-9 and 20-24 are respectfully requested in light of the following remarks.

**REMARKS**

The Examiner has rejected Claims 1, 2, 4, 5, 8, 9, 21 and 24 under 35 U.S.C. § 102(e) as anticipated by Marino.

Contrary to the Examiner's assertion, Marino does not disclose an implant having a substantially cylindrical body, either in Fig. 1A or anywhere else in the patent. In point of fact, the cross section taken through the mid-region of *every* embodiment of the Marino et al.

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